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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,339	06/21/2001	William Y. Conwell	P0379	7232

23735 7590 08/02/2004

DIGIMARC CORPORATION  
19801 SW 72ND AVENUE  
SUITE 250  
TUALATIN, OR 97062

EXAMINER

SONG, HOSUK

ART UNIT PAPER NUMBER

2135

DATE MAILED: 08/02/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/888,339

Applicant(s)

CONWELL ET AL.

Examiner

Hosuk Song

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-15 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 11, 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-10,12-15,19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al.(US 5,436,653) in view of Rump et al.(US 6,735,311).

Claims 1,6: Ellis discloses aggregating first signature data and second signature data in (col.5,lines 57-67). Ellis disclose identifying information associated with the first signature data and the second signature data and determining a subset of the associated information based at least in part on a frequency occurrence of the subset in (col.5,lines 47-67;col.11,lines 42-46). Ellis does not specifically disclose fingerprint data. Rump's patent discloses fingerprint data in (col.6,lines 47-54). It would have been obvious to person of ordinary skill in the art at the time invention was made to employ data fingerprinting as taught in Rump with signature method disclosed in Ellis because fingerprinting provides tracking information about data intruders and further provides information such as time and/or date of the content thereby enhancing security of its data.

Claim 2: Official notice is taken that vote tally is well known in the art. One of ordinary skill in the art would have been motivated to use vote tally in order to enhance the data analysis and distribution scheme.

Claim 3: Ellis discloses subset comprises at least one of audio, video, and image data in (col.11,lines 42-46).

Claim 4: Ellis discloses associated information comprises at least one of audio, video and image data in (col.6, lines 65-67; col.7, lines 1-2).

Claim 5: Ellis discloses aggregating signature data within a predetermined time period in (col.29, lines 45-47). Fingerprint data is discussed in claim 1 rejection.

Claims 7-10, 19: Ellis discloses aggregating a first set of audio signature with second set of audio signature and determining a plurality of songs relating to the aggregated signature in (col.23, lines 54-60). Ellis discloses selecting a song from the plurality of songs based on a number of times selected song matches the aggregated signature in (col.7, lines 50-67). Ellis does not specifically disclose fingerprint data. Rump's patent discloses fingerprint data in (col.6, lines 47-54). It would have been obvious to person of ordinary skill in the art at the time invention was made to employ data fingerprinting as taught in Rump with signature method disclosed in Ellis because fingerprinting provides tracking information about data intruders and further provides information such as time and/or date of the content thereby enhancing security of its data.

Claim 12: Ellis discloses user device generates second signature data in (col.5, lines 59-66).

Claims 13-15: Neither Ellis nor Rump discloses cellphone. Official notice is taken that cellphone is well known in the art. One of ordinary skill in the art would have been motivated to use cellphone because of portability, convenience offered by wireless technology.

Claims 20-21: Ellis discloses receiving a signal from a first broadcast source at a reference receiver in (fig.1 and col.4, lines 35-46). Ellis nor Rump specifically discloses watermark signal. Official notice is taken that watermark is well known in the art. One of ordinary skill in the art would have been motivated to employ watermarking in order to

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protect its ownership and copyright information. Ellis discloses interrogating a database with unique id to identify set of signature associated with received signal in (col.29,lines 17-35,60-66). Ellis does not specifically disclose fingerprint data. Rump's patent discloses fingerprint data in (col.6,lines 47-54). It would have been obvious to person of ordinary skill in the art at the time invention was made to employ data fingerprinting as taught in Rump with signature method disclosed in Ellis because fingerprinting provides tracking information about data intruders and further provides information such as time and/or date of the content thereby enhancing security of its data.

### ***Allowable Subject Matter***

2. Claims 11,16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Rabin et al.(US 6,697,948).

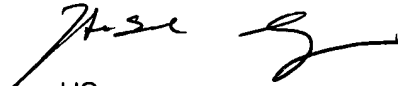
b. Wyatt(US 6,041,411).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hosuk Song whose telephone number is 703-305-0042. The examiner can normally be reached on Tue-Fri from 6:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 703-305-4393. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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